

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

Arcturus B. Mallette; On the Way Transport
LLC,

Plaintiffs,

vs.

Progressive Northern Insurance Company,

Defendant.

Civil Action No. 5:23-7091-CMC

ORDER

This matter is before the court on Plaintiff's Complaint, removed from state court. ECF No. 1-1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings.

On January 17, 2024, the Magistrate Judge issued an Order directing Plaintiff On the Way Transport to obtain counsel within 50 days, as a corporate litigant cannot proceed *pro se* in federal court. ECF No. 9. On the Way Transport was notified that if counsel did not appear for On the Way Transport, it may be dismissed for failure to comply with an order of the court. *Id.* at 1. Plaintiff Arcturus Mallette was directed to submit answers to Local Rule 26.01 interrogatories, and a copy was attached to the Order. *Id.* Neither Plaintiff responded to the Order, and the deadline to do so has expired. Counsel has not appeared for On the Way Transport.

The Magistrate Judge therefore filed a Report recommending this matter be dismissed for failure to comply with a court order and failure to prosecute. ECF No. 23. Plaintiff has not filed objections or any response, and the time to do so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the

court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a review of the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the court adopts the Report by reference in this Order. This matter is dismissed without prejudice for failure to prosecute and failure to comply with an Order of the court.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
April 8, 2024